

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION**

CASE NO. 03-20949-CR-KING/BANDSTRA

UNITED STATES OF AMERICA,

Plaintiff,

v.

GUSTAVO BRU,

Defendant.

**ORDER AFFIRMING AND ADOPTING REPORT AND RECOMMENDATION OF
MAGISTRATE**

THIS CAUSE comes before the Court upon the February 14, 2012 Report and Recommendation (“R&R”) of Magistrate Judge Ted E. Bandstra (DE #165), recommending that this Court find excusable neglect and good cause for Defendant Gustavo Bru’s untimely filing of his notice of appeal. After a thorough review of the record, the Court concludes that the R&R contains well-reasoned recommendations.

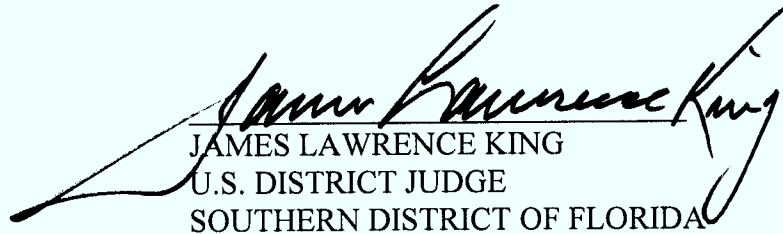
This matter is before the Court on limited remand from the Eleventh Circuit Court of Appeals, instructing this Court to conduct an evidentiary hearing regarding whether Defendant’s untimely notice of appeal was the result of excusable neglect or good cause under Fed. R. App. P. 4(b)(4). On January 20, 2012, Magistrate Judge Bandtra held an evidentiary hearing to determine whether the delay was a result of excusable neglect. Upon consideration of testimony from Defendant Bru and his former defense counsel, Magistrate Judge Bandstra determined that Defendant Bru’s belated filing was due to excusable neglect and that the prosecution will suffer no

prejudice from the brief delay.

Accordingly, the Court being otherwise fully advised, it is **ORDERED, ADJUDGED and DECREED** as follows:

1. Magistrate Judge Ted E. Bandstra February 14, 2012 Report and Recommendation (**DE #165**) be, and the same is, hereby **AFFIRMED and ADOPTED**.
2. The Court **FINDS** excusable neglect for Defendant Bru's untimely filing of his notice of appeal.

DONE and ORDERED in chambers at the James Lawrence King Federal Justice Building and United States Courthouse, Miami, Florida, this 15th day of February, 2012.


JAMES LAWRENCE KING
U.S. DISTRICT JUDGE
SOUTHERN DISTRICT OF FLORIDA

cc: Magistrate Judge Ted E. Bandstra
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Regina Veals-Gilli

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